

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
CASE NO. 3:18-CV-157-RJC-DSC**

LISA MORRIS, MICHAEL BUI, TUMIKA  
WILLIAMS, ALBERT EDGE and KRISTEN  
VALPERGA on behalf of themselves and all  
others similarly situated,

Plaintiffs,

vs.

BANK OF AMERICA, N.A.,

Defendant.

**JOINT DECLARATION IN SUPPORT OF PLAINTIFFS' MOTION FOR FINAL  
APPROVAL OF SETTLEMENT**

We, Larry S. McDevitt, David M. Wilkerson, Jeffrey D. Kaliel, and James J. Pizzirusso,  
Liaison and Co-Lead Counsel, declare and state that:

1. We are counsel of record for Plaintiffs and the proposed Classes in the above-captioned matter. We submit this declaration in support of Plaintiffs' Motion for Final Approval of Class Action Settlement. Unless otherwise noted, we have personal knowledge of the facts set forth in this declaration and could and would testify competently to them if called to do so.
2. We have jointly responded to inquiries from dozens of class members regarding the settlement via both email and telephone. Many of these class members expressed thanks for the class representative pursuing this litigation against Bank of America ("BANA").

3. Numerous class members had questions regarding the timing of final settlement approval, as well as the timing and method of payments under the settlement.
4. Numerous class members provided updated addresses for notices and payment.
5. No class members objected to the settlement.
6. No state Attorney Generals have objected or raised concerns about the settlement.
7. As part of the Settlement process, BANA provided data to Plaintiffs showing the amount of fees it took in under the practices in dispute in this litigation. Under the Settlement, BANA will provide a settlement fund of \$75 million, which alone represents approximately 17- 40% of the estimated classwide damages, depending on how damages are determined.
8. BANA has agreed to stop the practice at the heart of this litigation – the imposition of multiple NSF Fees or OD Fees on ACH entries labeled as “RETRY” payments for at least five years. Over the five-year term of the Settlement, according to BANA’s data, this equates to approximately \$318 million in additional relief for the class and current and future account holders.
9. The total monetary value of the Settlement is an estimated \$75 million common fund combined with \$318 million in business practice changes, or between 90%-210% of the damages the Class could have recovered.
10. Class Counsel collectively have decades of experience litigating consumer class actions (including those against financial institutions) and have litigated and settled dozens of class actions involving deceptive practices, as well as overdraft fees, non-sufficient fund fees, and other types of allegedly wrongful conduct by financial institutions. *See* Joint Declarations, Dkt. 86-3 and Dkt. 89-2.

11. We each endorse the settlement as fair and adequate under the circumstances.

We declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated this 13<sup>th</sup> day of December, 2021 at Asheville, N.C.

s/ Larry S. McDevitt

Dated this 13<sup>th</sup> day of December, 2021 at Asheville, N.C.

s/ David M. Wilkerson

Dated this 13<sup>th</sup> day of December, 2021 at Washington, D.C.

s/ Jeffrey D. Kalie

Dated this 13<sup>th</sup> day of December, 2021 at Falls Church, VA

s/ James J. Pizzirusso